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AICPA *Washington Report*

March 28, 1983, Volume XII, Issue 5

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TREASURY, DEPARTMENT OF

Final regulations relating to the determination of the debt deduction of thrift institutions belonging to an affiliated group filing consolidated tax returns were recently issued by the IRS (see the 3/17/83 Fed. Reg., pp. 11256-58). The rules essentially continue the relaxation of the original proposals of 1/28/81, but go on to modify proposals that allowed the offsetting of a member's taxable income base by non-thrift losses. The regulations which implement tax code section 1502, are effective for taxable years for which the due date for filing returns is after 3/14/83. For additional information contact Yerachmiel Weinstein at 202/566-3458.

The method for reporting the gains from year-end stock sales which are to be treated as installment sales has been outlined by the IRS in IR-83-52. Under current law, IRC sec. 453(b), taxpayers who sell stock at a gain in one year and receive full payment in the following year have made an installment sale. According to the Service, taxpayers should include the gain in their income for the year of payment unless they elect not to report the sale on the installment method. A taxpayer who elects not to use the installment method should include the gain in income for the year of sale. In both cases, these year-end stock sales should be reported by taxpayers only on Schedule D of their appropriate income tax return. Further, the IRS noted that even though the sale is treated as an installment sale under the revenue ruling, taxpayers need not file Form 6252, Computation of Installment Sale Income. For additional information contact the IRS at 202/566-4024.

IRS recently announced the availability of the latest report on international income and taxes, Statistics of Income--1976-1979, Foreign Income and Taxes Reported on U.S. Income Tax Returns (IR-83-43). This report presents data on the foreign income and taxes reported by both individuals and corporations. For individuals, tax year 1979 data covers returns claiming a deduction from or exclusion of income earned abroad and those claiming a foreign tax credit. For corporations, tax year 1976 data are presented on claims of the foreign tax credit and on the controlled foreign corporations of U.S. corporations. The 420 page report, Publication 1174, is available for \$10 a copy from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402, 202/783-3238.

Final regulations implementing withholding and interest reporting requirements of the 1982 tax act were recently issued by the IRS, but the regulations did not include rules for undue hardship exemptions. The final regulations include many recommendations submitted by commentators including clarifications of alternative source withholding, the treatment of certain exempt accounts, and the treatment of middlemen and paying agents. Also included is the clarification that banks may withhold annually on new money market funds and Super-Now accounts. The final regulations are issued as T.D. 7880 (withholding on dividend and interest income) and T.D. 7881 (information reporting). Hardship exemption regulations expected by 3/28/83, will apparently not be issued by then but will be released in the very near future, according to an IRS source. Hardship applications may not be filed earlier than 4/1/83, and will not be accepted after 5/15/83. If approved, the exemption would allow payors to delay the implementation of withholding from the 7/1/83 effective date, but only so long as the undue hardship exists. Withholding waivers will not be extended beyond 12/31/83.

SPECIAL: AICPA ISSUES AUDIT GUIDE FOR EMPLOYEE BENEFIT PLANS

A comprehensive guide to auditing and accounting for employee benefit plans was recently published by the AICPA. The guide, "Audits of Employee Benefit Plans," is the first guide to apply to all kinds of plans, from profit sharing to health and welfare, according to Andrew J. Capelli, Chairman of the AICPA benefit plans and ERISA committee. Inspired by the confusion of reporting and audit requirements under the Employment Retirement Income Security Act of 1974, the guide sets out consistent accounting principles for all types of plans, clearly details the audit process and suggests procedures that might reduce audit costs. The guide also deals with possible auditing and reporting problems and lists applicable statutory rules and regulations. The guide is intended to provide precise parameters for application of auditing standards and accounting principles to every aspect of the audit. Copies of the guide are available from the AICPA Order Department at 212/575-6426.

SPECIAL: SEN. GARN SETS OVERSIGHT HEARINGS ON FINANCIAL SERVICES

Comprehensive oversight hearings into the competitive structure of the financial services industry will begin 4/6/83, according to Senate Banking Committee Chairman Jake Garn (R-UT). Issues scheduled for discussion include securities and other non-bank activities of depository institutions, interstate operations of depository institutions, competition between depository and non-depository intermediaries, and the status of all financial intermediaries under federal banking statutes. Sen. Garn stated that he is particularly interested in municipal bond underwriting by banks, and noted that the committee must look into the question of interstate banking because, "whether we like it or not, interstate banking is upon us." Although the Treasury Department is expected to advance its deregulation proposals during the hearings, according to previous statements by the chairman they will not result in financial legislation in 1983. As yet, Treasury Secretary Donald Regan is the only witness scheduled to testify and though further hearings are expected, none have been set.

SPECIAL: REP. MICA SEEKS CHANGES IN FCPA

Changes in the Foreign Corrupt Practices Act of 1977 have been suggested in legislation introduced recently by Rep. Dan Mica (D-FL) as H.R. 2157, the "Foreign Trade Practices Act of 1983." Under the legislative initiative, the FCPA would be replaced by similar provisions appended to the Export Administration Act of 1979. Enforcement of the restrictions applicable to U.S. entities, publicly and privately held, would be transferred from the SEC to the Department of Commerce, with the Justice Department having responsibility to prosecute cases involving criminal violations. There would, however, be no imposition of criminal liability for non-compliance with the accounting provisions of the measure. Currently, prohibitions under FCPA only affect issuers who are required to register under the SEC Act. H.R. 2157 intends to broaden that category to include "any citizen, national, resident, corporation, partnership, association, joint stock company, business trust, unincorporated organization or sole proprietorship which has its principal place of business in the U.S....." In his closing remarks, Rep. Mica states, "This proposal will strongly discourage illicit payments to foreign officials without such costly disruptions of trade as have resulted from the ambiguities of the FCPA."

SPECIAL: SENATE SUBCOMMITTEE EXAMINES STATUS OF DEFINED BENEFIT PLANS

An examination of the status of defined benefit plans by the Senate Subcommittee on Labor concluded that provisions of laws such as the Tax Equity Act and the Multiemployer Pension Plan Act, as well as legislative proposals under consideration discourage the establishment of defined benefit pension plans. Although the private pension component of the retirement income system is in

good shape, there has been a slowdown in the number of plans started since the ERISA of 1974 was enacted, according to Dallas L. Salisbury, executive director of the Employee Benefit Research Institute. Mr. Salisbury went on to say, "Economic and legislative uncertainty make employers wary of taking on indeterminable obligations. Of all pension programs, defined benefit plans are the most indeterminable in terms of employer cost because the employer bears the risk of poor investment performance and retrospective legislative changes." Other witnesses at the hearing included representatives from the FASB, the Associated General Contractors of America, the American Trucking Association and professors from Princeton and Yale. Subcommittee Chairman Don Nickles (R-OK) noted the Subcommittee will continue its study with another hearing on 4/7/83.

SPECIAL: SENATE COMMITTEE APPROVES COMPETITION IN CONTRACTING LEGISLATION

The competition in contracting bill, S. 338, sponsored by Sen. William Cohen (R-ME) won unanimous approval recently by the Senate Governmental Affairs Committee. During the mark up, the committee adopted an amendment by Sen. Carl Levin (D-MI) that would lower the threshold for requiring contractors to certify their cost and pricing data to \$100,000. An additional amendment adopted by the committee clarifies the exemption from the requirement to publish a preaward notice in the "Commerce Business Daily" in cases where the disclosure of the agency's needs would compromise the national security. The measure now goes to the Senate Armed Services Committee which has until 6/15/83 to consider the defense related provisions.

In a related matter, H.R. 1882, the "Consulting Reform and Disclosure Act of 1983," was reintroduced by Rep. Geraldine Ferraro (D-NY). The legislation seeks to clarify the authority for appointment and compensation of experts and consultants. Additionally, it provides statutory guidelines concerning the award of contracts for the procurement of consulting services, management and professional services.

For additional information, please contact Jim Kovakas, Gina Rosasco, Nick Nichols or Kathee Baker at 202/872-8190.

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American Institute of Certified Public Accountants

1620 Eye Street, N.W., Washington, D.C. 20006

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